

CONDOMINIUM

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DECLARATION

OF

CONDOMINIUM

OF

PHEASANT RUN BUILDINGS 1, 2, 3, 4, 5, 6 and 7

A

CONDOMINIUM

IN

TOPEKA, SHAWNEE COUNTY, KANSAS

CONDOMINIUM

Book 5 Page 94

DECLARATION OF CONDOMINIUM  
OF  
PHEASANT RUN BUILDINGS 1, 2, 3, 4, 5, 6 and 7,  
A CONDOMINIUM IN TOPEKA, SHAWNEE COUNTY, KANSAS

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DECLARATION OF CONDOMINIUM

OF

PHEASANT RUN BUILDINGS 1, 2, 3, 4, 5, 6 and 7,  
A CONDOMINIUM IN TOPEKA, SHAWNEE COUNTY, KANSAS

THIS DECLARATION OF CONDOMINIUM pursuant to the Kansas Apartment Ownership Act, K.S.A. 58-3101-3129 is made and declared this 16 day of May, 1979, by the Developer and Declarant, PHEASANT RUN COMPANY, a general partnership organized and existing under the laws of the State of Kansas and pursuant to its Uniform Partnership Act. The Developer-Declarant, PHEASANT RUN COMPANY, will hereinafter be referred to as the "Developer".

WITNESSETH:

WHEREAS, the Developer presently owns certain real property, hereinafter described, which is located in a portion of Lot 13, Block A, in the John O. Allen Subdivision No. 2 to the City of Topeka, Shawnee County, Kansas; and,

WHEREAS, pursuant to the requirements of the Kansas Apartment Ownership Act, the Developer desires to propose and create this Declaration of Condominium on the real property owned by it and hereinafter described together with all such improvements upon said real estate to the condominium form of ownership and use including the separate ownership of units by grantees and their undivided interest in certain common facilities; and,

WHEREAS, the Kansas Apartment Ownership Act, found at K.S.A. 58-3101-3129 and all amendments thereto, control the Declaration of Condominium and the rights and obligations of the owners of interest within the condominium and the Developer declares this condominium with the intention that its terms and provisions be construed in accordance with requirements of the Kansas Apartment Ownership Act.

NOW, THEREFORE, pursuant to the Kansas Apartment Ownership Act the Developer, PHEASANT RUN COMPANY, a general partnership, hereby makes the following

Declarations of Condominium as to the real property hereinafter described and further reserving to itself additional rights, as hereinafter stated:

1. DESCRIPTION OF THE LAND INCLUDED IN THIS CONDOMINIUM DECLARATION

The land owned by the Developer, hereby specifically submitted to the condominium form of ownership is located on a portion of Lot 13, in Block A, in the John O. Allen Subdivision No. 2, in the City of Topeka, Shawnee County, Kansas. The plat of the John O. Allen Subdivision No. 2, of which the declared property is a part, is to be found in Book 25, at Page 127, of the records of the Register of Deeds of Shawnee County, Kansas. The legal description of the total property which is herein declared as condominium property is shown in a graphic survey prepared by Bartlett and West, Consulting Engineers, P.A., a copy of which is attached hereto and incorporated herein by reference as if it were set out in full herein, marked Exhibit "A", and a written description is as follows:

A tract of land located in the Northwest quarter of Section 9, Township 12 South, Range 15 East of the 6th P.M., City of Topeka, Shawnee County, Kansas, more particularly described as follows:

Commencing at the southwest corner of Lot 13, Block A, John O. Allen Subdivision No. 2, City of Topeka, Shawnee County, Kansas; thence on Az 359 degrees 11 minutes 30 seconds, 153.52 feet along the West line of said lot; thence 88.48 feet northerly along said West line around a curve to the right having a radius of 265.00 feet and a central angle of 19 degrees 07 minutes 47 seconds to the POINT OF BEGINNING; thence continuing 120.63 feet northeasterly along said West line around a curve to the right having a radius of 265.00 feet and a central angle of 26 degrees 05 minutes 17 seconds; thence on Az 44 degrees 24 minutes 34 seconds, 293.40 feet along said West line; thence 53.00 feet northeasterly along said West line to the northwest corner of said lot around a curve to the left having a radius of 335.00 feet and a central angle of 9 degrees 03 minutes 56 seconds; thence on Az 120 degrees 12 minutes 22 seconds, 34.51 feet along the North line of said lot; thence 142.48 feet easterly along said North line around a curve to the left having a radius of 280.00 feet and a central angle of 29 degrees 09 minutes 17 seconds; thence on Az 177 degrees 58 minutes 55 seconds, 99.40 feet; thence on Az 87 degrees 58 minutes 55 seconds, 40.28 feet; thence on Az 177 degrees 58 minutes 55 seconds, 181.00 feet; thence on Az 267 degrees 58 minutes 55 seconds, 220.64 feet; thence on Az 177 degrees 58 minutes 55 seconds, 44.07 feet; thence on Az 238 degrees 05 minutes 20 seconds, 42.00 feet; thence on Az 328 degrees 05 minutes 20 seconds, 74.98 feet; thence on Az 267 degrees 58 minutes 55 seconds, 223.11 feet to the point of beginning, containing 2.70 acres, more or less.

1.1 ACTUAL LOCATION OF BUILDINGS 1 THROUGH 7 OF PROJECT

The Developer will construct upon the land, hereinbefore described declared as condominium property and shown on Exhibit "A" hereof, certain improvements con-



sisting of seven buildings, with each building housing four apartment units. The location of each of the buildings to be constructed upon the condominium property has been established by the consulting engineer for the Developer and has been reflected in certified plats of survey as follows:

- (a) Building No. 1, also known as building site No. 1, the plat and location of which is shown in Exhibit "A-1", attached hereto and incorporated herein by reference, as if set out in full herein.
- (b) Building No. 2, also known as building site No. 2, the plat and location of which is shown in Exhibit "A-2", attached hereto and incorporated hereby by reference, as if set out in full herein.
- (c) Building No. 3, also known as building site No. 3, the plat and location of which is shown in Exhibit "A-3", attached hereto and incorporated hereby by reference, as if set out in full herein.
- (d) Building No. 4, also known as building site No. 4, the plat and location of which is shown in Exhibit "A-4", attached hereto and incorporated hereby by reference, as if set out in full herein.
- (e) Building No. 5, also known as building site No. 5, the plat and location of which is shown in Exhibit "A-5", attached hereto and incorporated hereby by reference, as if set out in full herein.
- (f) Building No. 6, also known as building site No. 6, the plat and location of which is shown in Exhibit "A-6", attached hereto and incorporated hereby by reference, as if set out in full herein.
- (g) Building No. 7, also known as building site No. 7, the plat and location of which is shown in Exhibit "A-7", attached hereto and incorporated hereby by reference, as if set out in full herein.

#### 1.2 INTENTION OF DEVELOPMENT OF CONDOMINIUM

The condominium project herein declared is to be known as the PHEASANT RUN CONDOMINIUMS and will consist in the initial phase herein declared as condominiums of seven buildings, each housing four condominium units, for a total of twenty-eight (28) units. Each of the units shall be considered separate condominiums.

#### 1.3 DECLARATION OF EASEMENTS OF STREETS AND WAYS

The Developer hereby dedicates and creates as common area available to all parties, as hereinafter provided, all that portion of the property described in Exhibit "A", except that portion hereafter declared as condominium apartments units available for private ownership. An easement for ingress and egress is hereby declared, dedicated and created over and across said common areas. The location of specific streets and ways shall be at the discretion of the developer. The consulting engineer for the Developer has shown the intended general location of said streets and ways on Exhibit "B" which is attached hereto and incorporated herein by reference, as if set out in full herein. All of the private streets and ways described on said plat of survey will be known as



common area as the same is hereinafter described and provided for.

Exhibit "B" provides a graphic description of the general location of such private streets and ways. Each of the apartment units of this declared condominium shall, pursuant to the requirements of Kansas law, have direct access for purposes of ingress and egress to the common area of private streets and ways as herein dedicated and described which, in turn, will provide ingress and egress to such apartments to Southwest Westport Drive and Southwest 22nd Terrace, both dedicated public streets of the City of Topeka, Shawnee County, Kansas. It is not the intention of this declaration, nor has the Developer taken any previous action to dedicate such private ways and streets as public streets. These streets and ways are considered as common area and are reserved for the exclusive use and benefit of the owners of the Pheasant Run Condominium units herein declared, their family, guests, invitees, devisees, heirs, mortgagees, successors and assigns. It shall be the responsibility of the Pheasant Run Condominium Homeowners Association, Inc., a Kansas non-profit corporation, as hereinafter provided, to care for and maintain such private streets and ways and to provide for the charging to the apartment units of a pro rata cost for such maintenance.

**2. STRUCTURAL DESCRIPTION OF PHEASANT RUN CONDOMINIUMS**  
**BUILDINGS 1 THROUGH 7**

The following is intended as a general structural description of each of the buildings making up this declared condominium project:

(a) Pheasant Run Condominium Building No. 1, otherwise known as 5849 Southwest 22nd Terrace, and shown graphically on Exhibit "A-1", shall consist of four apartment units, when completed, each consisting of two bedrooms, one of the four units shall include one bath, a great room and kitchen, with deck or patio, and one unit shall have one and one-half baths, and two of the units shall contain either two bedrooms with two baths, living room, kitchen, dining room and deck or patio, or two bedrooms, two baths, great room, kitchen, dining room and deck or patio. As more specifically described in the floor plans filed with the Register of Deeds of Shawnee County, Kansas, in conjunction with this Declaration, all as required by K.S.A. 58-3113. This building shall be constructed with no basement and with a concrete foundation.

(b) Pheasant Run Condominium Building No. 2, otherwise known as 5851 Southwest 22nd Terrace, and shown graphically on Exhibit "A-2", shall consist of four apartment units, when completed, each consisting of two bedrooms, one of the four units shall include one bath, great room and kitchen, with deck or patio, one unit shall have one and one-half baths, and two of the units shall contain either two bedrooms with two baths, living room, kitchen, dining room and deck or patio, or two bedrooms, two baths, great room, kitchen, dining room and deck or patio. As more specifically described in the floor plans filed with the Register of Deeds of Shawnee County, Kansas, in conjunction with this Declaration, all as required by K.S.A. 58-3113. This building shall be constructed with no basement and



with a concrete foundation.

(c) Pheasant Run Condominium Building No. 3, otherwise known as 5855 Southwest 22nd Terrace, and shown graphically on Exhibit "A-3", shall consist of four apartment units, when completed, each consisting of two bedrooms, two of the four units shall include one bath, great room and kitchen, with deck or patio, and two of the units shall contain either two bedrooms with one and one-half baths, living room, kitchen, dining room and deck or patio, or two bedrooms, one and one-half baths, great room, kitchen, dining room and deck or patio. As more specifically described in the floor plans filed with the Register of Deeds of Shawnee County, Kansas, in conjunction with this Declaration, all as required by K.S.A. 58-3113. This building shall be constructed with no basement and with a concrete foundation.

(d) Pheasant Run Condominium Building No. 4, otherwise known as 5859 Southwest 22nd Terrace, and shown graphically on Exhibit "A-4", shall consist of four apartment units, when completed, each consisting of two bedrooms, two of the four units shall include one bath, great room and kitchen, with deck or patio, and two of the units shall contain either two bedrooms with one and one-half baths, living room, kitchen, dining room and deck or patio, or two bedrooms, one and one-half baths, great room, kitchen, dining room and deck or patio. As more specifically described in the floor plans filed with the Register of Deeds of Shawnee County, Kansas, in conjunction with this Declaration, all as required by K.S.A. 58-3113. This building shall be constructed with no basement and with a concrete foundation.

(e) Pheasant Run Condominium Building No. 5, otherwise known as 5853 Southwest 22nd Terrace, and shown graphically on Exhibit "A-5", shall consist of four apartment units, when completed, each consisting of two bedrooms, two of the four units shall include one bath, great room and kitchen, with deck or patio, and two of the units shall contain either two bedrooms with one and one-half baths, living room, kitchen, dining room and deck or patio, or two bedrooms, one and one-half baths, great room, kitchen, dining room and deck or patio. As more specifically described in the floor plans filed with the Register of Deeds of Shawnee County, Kansas, in conjunction with this Declaration, all as required by K.S.A. 58-3113. This building shall be constructed with no basement and with a concrete foundation.

(f) Pheasant Run Condominium Building No. 6, otherwise known as 5857 Southwest 22nd Terrace, and shown graphically on Exhibit "A-6", shall consist of four apartment units, when completed, each consisting of two bedrooms, one of the four units shall include one bath, great room and kitchen, with deck or patio, and one unit shall have one and one half baths, and two of the units shall contain either two bedrooms with two baths, living room, kitchen, dining room and deck or patio, or two bedrooms, two baths, great room, kitchen, dining room and deck or patio. As more specifically described in the floor plans filed with the Register of Deeds of Shawnee County, Kansas, in conjunction with

this Declaration, all as required by K.S.A. 58-3113. This building shall be constructed with no basement and with a concrete foundation.

(g) Pheasant Run Condominium Building No. 7, otherwise known as 5861 Southwest 22nd Terrace, and shown graphically on Exhibit "A-7", shall consist of four apartment units, when completed, each consisting of two bedrooms, two of the four units shall include one bath, great room and kitchen, with deck or patio, and two of the units shall contain either two bedrooms with one and one-half baths, living room, kitchen, dining room and deck or patio, or two bedrooms, one and one-half baths, great room, kitchen, dining room and deck or patio. As more specifically described in the floor plans filed with the Register of Deeds of Shawnee County, Kansas, in conjunction with this Declaration, all as required by K.S.A. 58-3113. This building will be constructed with a full basement under it. Said basement is to be common area as hereafter provided.

(h) The Apartment Number of each Apartment Unit

The following shall be the street address and unit number of each of the apartments of the total twenty-eight (28) units, herein declared as condominiums:

1. Building No. 1, more specifically known as 5849 Southwest 22nd Terrace:

Unit 1 - 5849 Southwest 22nd Terrace No. 1;  
Unit 2 - 5849 Southwest 22nd Terrace No. 2;  
Unit 3 - 5849 Southwest 22nd Terrace No. 3;  
Unit 4 - 5849 Southwest 22nd Terrace No. 4;

2. Building No. 2, more specifically known as 5851 Southwest 22nd Terrace:

Unit 1 - 5851 Southwest 22nd Terrace No. 1;  
Unit 2 - 5851 Southwest 22nd Terrace No. 2;  
Unit 3 - 5851 Southwest 22nd Terrace No. 3;  
Unit 4 - 5851 Southwest 22nd Terrace No. 4;

3. Building No. 3, more specifically known as 5855 Southwest 22nd Terrace:

Unit 1 - 5855 Southwest 22nd Terrace No. 1;  
Unit 2 - 5855 Southwest 22nd Terrace No. 2;  
Unit 3 - 5855 Southwest 22nd Terrace No. 3;  
Unit 4 - 5855 Southwest 22nd Terrace No. 4;

4. Building No. 4, more specifically known as 5859 Southwest 22nd Terrace:

Unit 1 - 5859 Southwest 22nd Terrace No. 1;  
Unit 2 - 5859 Southwest 22nd Terrace No. 2;  
Unit 3 - 5859 Southwest 22nd Terrace No. 3;  
Unit 4 - 5859 Southwest 22nd Terrace No. 4;



5. Building No. 5, more specifically known as 5853 Southwest 22nd Terrace:

Unit 1 - 5853 Southwest 22nd Terrace No. 1;  
Unit 2 - 5853 Southwest 22nd Terrace No. 2;  
Unit 3 - 5853 Southwest 22nd Terrace No. 3;  
Unit 4 - 5853 Southwest 22nd Terrace No. 4;

6. Building No. 6, more specifically known as 5857 Southwest 22nd Terrace:

Unit 1 - 5857 Southwest 22nd Terrace No. 1;  
Unit 2 - 5857 Southwest 22nd Terrace No. 2;  
Unit 3 - 5857 Southwest 22nd Terrace No. 3;  
Unit 4 - 5857 Southwest 22nd Terrace No. 4;

7. Building No. 7, more specifically known as 5861 Southwest 22nd Terrace:

Unit 1 - 5861 Southwest 22nd Terrace No. 1;  
Unit 2 - 5861 Southwest 22nd Terrace No. 2;  
Unit 3 - 5861 Southwest 22nd Terrace No. 3;  
Unit 4 - 5861 Southwest 22nd Terrace No. 4;

(j) Respective Floor Plans of Apartment Units

Pursuant to the requirements of K.S.A. 58-3111 and K.S.A. 58-3113, the Developer has filed with the Register of Deeds of Shawnee County, Kansas, simultaneous with the recording of this Declaration, a copy of the floor plans for Pheasant Run Condominium Building No. 1, Building No. 2, Building No. 3, Building No. 4, Building No. 5, Building No. 6 and Building No. 7. Those floor plans were prepared by Knight, Remmele and Eaton, Architects for the Developer and generally depict the layout, location, apartment numbers, and the dimensions of each of the apartment units within each of the buildings. In addition, in accordance with the requirements of K.S.A. 58-3113, there is a certificate from such licensed professional architects certifying that the recorded floor plans are accurate copies of portions of the plans of the building, as filed with and approved by the Topeka Building Inspectors Office who has the jurisdiction and control over the issuances of building permits for the construction of buildings within the city limits of the City of Topeka, Shawnee County, Kansas.

3. GENERAL DESCRIPTION OF THE STREET LOCATIONS OF THE APARTMENT UNITS AND THE APPROXIMATE AREA AND NUMBER OF ROOMS OF EACH APARTMENT UNIT.

3.1 PHEASANT RUN BUILDING 1 APARTMENT UNIT

ADDRESS: 5849 Southwest 22nd Terrace - No. 1, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the ground floor on the left side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with 1-1/2 baths, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 1,104 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room	258 square feet
Dining Room	101 square feet
Kitchen	93 square feet
Master Bedroom	171 square feet
Bedroom No. 2	130 square feet
No. of Baths	1-1/2 baths
Patio and extra storage	172 square feet

3.2 PHEASANT RUN BUILDING 1 APARTMENT UNIT 2

ADDRESS: 5849 Southwest 22nd Terrace - No. 2, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the ground floor on the right side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with two baths, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 1,218 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room	346 square feet
Dining Room	83 square feet
Kitchen	76 square feet
Master Bedroom	229.5 square feet
Bedroom # 2	136 square feet
No. of Baths	2-baths
Patio and extra storage	154.6 square feet

3.3 PHEASANT RUN BUILDING 1 APARTMENT UNIT 3

ADDRESS: 5849 Southwest 22nd Terrace - No. 3, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the second floor on the left side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with one bath, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 952 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room and dining room	266 square feet
Kitchen	79.3 square feet
Master Bedroom	159 square feet
Bedroom No. 2	128 square feet
No. of baths	1-bath
Deck and extra storage	166 square feet



### 3.4 PHEASANT RUN BUILDING 1 APARTMENT UNIT 4

ADDRESS: 5849 Southwest 22nd Terrace - No. 4, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the second floor on the right side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with two baths, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 1,232 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room	346 square feet
Dining Room	33 square feet
Kitchen	76 square feet
Master Bedroom	243 square feet
Bedroom No. 2	136 square feet
No. of baths	2-baths
Deck and extra storage	154.6 square feet

### 3.5 PHEASANT RUN BUILDING 2 APARTMENT UNIT 1

ADDRESS: 5851 Southwest 22nd Terrace - No. 1, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the ground floor on the left side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with 1-1/2 baths, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 1,104 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room	258 square feet
Dining Room	101 square feet
Kitchen	93 square feet
Master Bedroom	171 square feet
No. of baths	1-1/2 baths
Patio and extra storage	172 square feet

### 3.6 PHEASANT RUN BUILDING 2 APARTMENT UNIT 2

ADDRESS: 5851 Southwest 22nd Terrace - No. 2, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the ground floor on the right side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with two baths, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 1,218 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room	346 square feet
Dining Room	83 square feet
Kitchen	76 square feet
Master Bedroom	229.5 square feet
Bedroom # 2	136 square feet
No. of baths	2-baths
Patio and extra storage	154.6 square feet

### 3.7 PHEASANT RUN BUILDING 2 APARTMENT UNIT 3

ADDRESS: 5851 Southwest 22nd Terrace - No. 3, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the second floor on the left side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with one bath, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 952 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room and Dining Room and Kitchen	299 square feet
Master Bedroom	79.3 square feet
Bedroom No. 2	159 square feet
No. of baths	128 square feet
Deck and extra storage	1-bath
	166 square feet

### 3.8 PHEASANT RUN BUILDING 2 APARTMENT UNIT 4

ADDRESS: 5851 Southwest 22nd Terrace - No. 4, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the second floor on the rightside as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with two baths, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 1,232 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room	346 square feet
Dining Room	83 square feet
Kitchen	76 square feet
Master Bedroom	243 square feet
Bedroom No. 2	136 square feet
No. of baths	2-baths
Deck and extra storage	154.6 square feet



### 3.9 PHEASANT RUN BUILDING 3 APARTMENT UNIT 1

ADDRESS: 5855 Southwest 22nd Terrace - No. 1, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the ground floor on the left side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with one bath, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 952 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room and Dining Room	299 square feet
Kitchen	79.3 square feet
Master Bedroom	159 square feet
Bedroom No. 2	128 square feet
No. of baths	1-bath
Patio and exterior storage	166 square feet

### 3.10 PHEASANT RUN BUILDING 3 APARTMENT UNIT 2

ADDRESS: 5855 Southwest 22nd Terrace - No. 2, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the ground floor on the right side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with 1-1/2 baths, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 1,104 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room	258 square feet
Dining Room	101 square feet
Kitchen	93 square feet
Master Bedroom	171 square feet
Bedroom No. 2	130 square feet
No. of baths	1-1/2 baths
Patio and exterior storage	172 square feet

### 3.11 PHEASANT RUN BUILDING 3 APARTMENT UNIT 3

ADDRESS: 5855 Southwest 22nd Terrace - No. 3, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the second floor on the left side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with one bath, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 952 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room and Dining Room	289 square feet
Kitchen	79.3 square feet
Master Bedroom	157 square feet
Bedroom No. 2	128 square feet
No. of baths	1-bath
Deck and exterior storage	172 square feet

### 3.12 PHEASANT RUN BUILDING 3 APARTMENT UNIT 4

ADDRESS: 5855 Southwest 22nd Terrace - No. 4, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the second floor on the right side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with 1-1/2 baths, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 1,104 square feet;

This apartment unit includes in general the following described rooms with this approximate interior area dimensions expressed in square feet:

Living Room	258 square feet
Dining Room	101 square feet
Kitchen	93 square feet
Master Bedroom	171 square feet
Bedroom No. 2	130 square feet
No. of baths	1-1/2 baths
Deck and exterior storage	172 square feet

### 3.13 PHEASANT RUN BUILDING 4 APARTMENT UNIT 1

ADDRESS: 5859 Southwest 22nd Terrace - No. 1, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the ground floor on the left side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with 1-1/2 baths, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 1,104 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room	258 square feet
Dining Room	101 square feet
Kitchen	93 square feet
Master Bedroom	171 square feet
Bedroom No. 2	130 square feet
No. of baths	1-1/2 baths
Patio and exterior storage	172 square feet

### 3.14 PHEASANT RUN BUILDING 4 APARTMENT UNIT 2

ADDRESS: 5859 Southwest 22nd Terrace - No. 2, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the ground floor on the right side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with 1-1/2 baths, and no basement or attic;



APPROXIMATE AREA IN SQUARE FEET: 1,104 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room	258 square feet
Dining Room	101 square feet
Kitchen	93 square feet
Master Bedroom	171 square feet
Bedroom No. 2	130 square feet
No. of baths	1-1/2 baths
Patio and exterior storage	172 square feet

3.15 PHEASANT RUN BUILDING 4 APARTMENT UNIT 3

ADDRESS: 5859 Southwest 22nd Terrace - No. 3, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the second floor on the left side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with one bath, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 952 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room and Dining Room	299 square feet
Kitchen	79 square feet
Master Bedroom	159 square feet
Bedroom No. 2	128 square feet
No. of baths	one-bath
Deck and exterior storage	166 square feet

3.16 PHEASANT RUN BUILDING 4 APARTMENT UNIT 4

ADDRESS: 5859 Southwest 22nd Terrace - No. 4, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the second floor on the right side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with one bath, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 952 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room and Dining Room	299 square feet
Kitchen	79 square feet
Master Bedroom	159 square feet
Bedroom No. 2	128 square feet
No. of baths	1- bath
Deck and exterior storage	166 square feet

**3.17 PHEASANT RUN BUILDING 5 APARTMENT UNIT 1**

**ADDRESS:** 5853 Southwest 22nd Terrace - No. 1, Topeka, Kansas;

**GENERAL DESCRIPTION:** This apartment unit is located on the ground floor on the left side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with one bath, and no basement or attic;

**APPROXIMATE AREA IN SQUARE FEET:** 952 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room and Dining Room	299 square feet
Kitchen	79.3 square feet
Master Bedroom	159 square feet
Bedroom No. 2	128 square feet
No. of baths	1- bath
Patio and exterior storage	172 square feet

**3.18 PHEASANT RUN BUILDING 5 APARTMENT UNIT 2**

**ADDRESS:** 5853 Southwest 22nd Terrace No. 2, Topeka, Kansas;

**GENERAL DESCRIPTION:** This apartment unit is located on the ground floor on the right side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with 1-1/2 baths, and no basement or attic;

**APPROXIMATE AREA IN SQUARE FEET:** 1,104 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room	258 square feet
Dining Room	101 square feet
Kitchen	93 square feet
Master Bedroom	171 square feet
Bedroom No. 2	130 square feet
No. of baths	1-1/2 baths
Patio and exterior storage	172 square feet

**3.19 PHEASANT RUN BUILDING 5 APARTMENT UNIT 3**

**ADDRESS:** 5853 Southwest 22nd Terrace - No. 3, Topeka, Kansas;

**GENERAL DESCRIPTION:** This apartment unit is located on the second floor on the left side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with one bath, and no basement or attic;

**APPROXIMATE AREA IN SQUARE FEET:** 952 square feet;

This apartment unit includes in general the following described rooms



with their approximate interior area dimensions expressed in square feet:

Living Room and Dining Room	299 square feet
Kitchen	79.3 square feet
Master Bedroom	159 square feet
Bedroom No. 2	128 square feet
No. of baths	1-bath
Deck and exterior storage	172 square feet

### 3.20 PHEASANT RUN BUILDING 5 APARTMENT UNIT 4

ADDRESS: 5853 Southwest 22nd Terrace - No. 4, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the second floor on the right side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with 1-1/2 baths, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 1,104 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room	257 square feet
Dining Room	101 square feet
Kitchen	93 square feet
Master Bedroom	171 square feet
Bedroom No. 2	130 square feet
No. of baths	1-1/2 baths
Deck and exterior storage	172 square feet

### 3.21 PHEASANT RUN BUILDING 6 APARTMENT UNIT 1

ADDRESS: 5857 Southwest 22nd Terrace - No. 1, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the ground floor on the left side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with 1-1/2 baths, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 1,104 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room	258 square feet
Dining Room	101 square feet
Kitchen	93 square feet
Master Bedroom	171 square feet
Bedroom No. 2	130 square feet
No. of baths	1-1/2 baths
Patio and exterior Storage	172 square feet

### 3.22 PHEASANT RUN BUILDING 6 APARTMENT UNIT 2

ADDRESS: 5857 Southwest 22nd Terrace - No. 2, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the ground

floor on the right side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with two baths, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 1,218 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living room	346 square feet
Dining room	83 square feet
Kitchen	76 square feet
Master Bedroom	229.5 square feet
Bedroom No. 2	138 square feet
No. of baths	2-baths
Patio and exterior storage	154.6 square feet

**3.23 PHEASANT RUN BUILDING 6 APARTMENT UNIT 3**

ADDRESS: 5857 Southwest 22nd Terrace - No. 3, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the second floor on the left side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with one bath, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 952 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room and Dining Room	289 square feet
Kitchen	79.3 square feet
Master Bedroom	159 square feet
Bedroom No. 2	128 square feet
No. of baths	1-bath
Deck and exterior storage	166 square feet

**3.24 PHEASANT RUN BUILDING 6 APARTMENT UNIT 4**

ADDRESS: 5857 Southwest 22nd Terrace - No. 4, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the second floor on the right side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with two baths, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 1,232 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room	346 square feet
Dining Room	83 square feet
Kitchen	76 square feet



Master Bedroom	243 square feet
Bedroom No. 2	136 square feet
No. of baths	2-baths
Deck and exterior storage	154.6 square feet

### 3.25 PHEASANT RUN BUILDING 7 APARTMENT UNIT 1

ADDRESS: 5861 Southwest 22nd Terrace - No. 1, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the ground floor on the left side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with one bath, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 952 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room and Dining Room	299 square feet
Kitchen	79.3 square feet
Master Bedroom	159 square feet
Bedroom No. 2	128 square feet
No. of baths	1-bath
Patio and exterior storage	172 square feet

### 3.26 PHEASANT RUN BUILDING 7 APARTMENT UNIT 2

ADDRESS: 5861 Southwest 22nd Terrace - No. 2, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the ground floor on the right side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with 1-1/2 baths, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 1,104 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room	258 square feet
Dining Room	101 square feet
Kitchen	93 square feet
Master Bedroom	171 square feet
Bedroom No. 2	130 square feet
No. of baths	1-1/2 baths
Patio and exterior storage	172 square feet

### 3.27 PHEASANT RUN BUILDING 7 APARTMENT UNIT 3

ADDRESS: 5861 Southwest 22nd Terrace - No. 3, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the second floor on the left side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with one bath, and no basement or attic;



APPROXIMATE AREA IN SQUARE FEET: 952 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room and Dining Room	299 square feet
Kitchen	79.3 square feet
Master Bedroom	159 square feet
Bedroom No. 2	128 square feet
No. of baths	1-bath
Deck and exterior storage	172 square feet

**3.28 PHEASANT RUN BUILDING 7 APARTMENT UNIT 4**

ADDRESS: 5561 Southwest 22nd Terrace - No. 4, Topeka, Kansas;

GENERAL DESCRIPTION: This apartment unit is located on the second floor on the right side as observed while facing the front of the building in which it is located. This apartment unit is a two bedroom unit with 1-1/2 baths, and no basement or attic;

APPROXIMATE AREA IN SQUARE FEET: 1,104 square feet;

This apartment unit includes in general the following described rooms with their approximate interior area dimensions expressed in square feet:

Living Room	258 square feet
Dining Room	101 square feet
Kitchen	93 square feet
Master Bedroom	171 square feet
Bedroom No. 2	130 square feet
No. of baths	1-1/2 baths
Deck and exterior storage	172 square feet

**4. BOUNDARY OF APARTMENT UNITS DESCRIBED FOR OWNERSHIP PURPOSES**

The boundary of each apartment unit, as hereinbefore described, for ownership purposes, includes only that part of the building that is located within the boundary of the apartment as it is described in this paragraph. The boundaries of the ground floor apartment units, which are numbered respectively 1 and 2 in each of the seven buildings hereinabove described, shall consist of the enclosed spaces located on one floor, known as the ground floor, of each of the buildings, with a direct exit for purposes of ingress and egress to the common area and stairwell servicing the building which said common area shall in turn provide access for purposes of ingress and egress to a private street, which is a common area, as hereinbefore provided for. Such private street or way shall provide access for purposes of ingress and egress to Southwest Westport Drive and/or Southwest 22nd Street Terrace, both publicly dedicated streets located in Topeka, Shawnee County, Kansas

Each of the apartment units, designated as Apartments 1 and 2 in each of



the described buildings, and located on the ground floor of such buildings, shall include the area enclosed horizontally by the exterior face of the drywall along the perimeter or exterior walls of such building and the exterior face of the drywall of such apartment unit at the interior side of walls separating adjacent units. The vertical ownership of each apartment unit shall extend from the top surface of the concrete slab of each unit, except in Building 7 in which building the ownership shall extend from the bottom surface of the subflooring to a vertical point on the outside surface of the drywall ceiling of the ground floor apartment unit. The second floor apartment units, known in each of the respective buildings hereinabove described as Apartments 3 and 4, shall include that area enclosed horizontally as was described for the ground floor units hereinabove. The vertical boundaries of such second floor units shall extend from the bottom surface of the subfloor for such second floor units to a point in vertical height at the exterior surface of the drywall ceiling of such second floor unit.

Apartments Nos 1 and 2 of each apartment building, known as the ground floor units, will each have a patio adjoining its particular unit as limited common area. The apartment units nos. 3 and 4, known as the second floor units in each of the apartment buildings, will have as limited common area the deck which adjoins each such unit. The dimensions and location of such patios and decks has been described herein or on the floor plans simultaneously filed herewith with the Register of Deeds of Shawnee County, Kansas.

In addition, each of the apartment units shall own the plumbing pipes, air conditioning compressor, television cable, heating and air conditioning equipment, ducts, fireplace boxes, metal insulated flues, switches, bathroom fixtures, kitchen appliances, door locks, windows, exterior lighting, light bulbs, and lines serving their particular unit wherever such lines, wiring, pipes and/or equipment may be located in the building or adjacent to the building. Easements for repair and maintenance of all of the above is given to each apartment unit owner pursuant to the provisions of Paragraph 15 hereafter. The duty to maintain, repair and replace such lines, wires, pipes, ducts and equipment is set forth in paragraph 14.4 hereafter.

In addition, each of the apartment units shall own their own exterior doors and locking systems located on or in such doors and all windows and other glass located along the exterior of their apartment unit. Further, each apartment unit located in each



building shall own the exterior light fixtures and bulbs in such fixtures, though they be located on the exterior portion of the building surface which would otherwise be common area.

The square footage of floor area which has previously been described herein is approximate in its description and the Developer reserves the right to make slight variations therein due to topographical or construction conditions as they exist on the site. Each of the floor areas does not include dimensions of drives, walkways, stairwells or other externally located facilities and are described herein in finished inside dimensions to the extent that such dimensions are available.

The dimensions of the described floor area of each of the apartment units within the declared condominium project do not include windows, door sills, external wall ducts, plumbing, wiring or sanitary lines. However, such floor areas do not include the dimensional distances of partitions separating interior rooms within the apartment units, including interior duct spaces and areas for wiring, plumbing and sanitary lines. Such dimensions do not include incidental entry ways, but generally open space available in each room.

**5. SPECIFICATION OF THIS DECLARATION AND RESERVATIONS OF RIGHTS FOR EXPANDABLE CONDOMINIUM BY DEVELOPER**

5.1 The only portion of real property which is herein declared as a condominium pursuant to the Kansas Apartment Ownership Act is that described in Exhibit "A", previously incorporated herein and attached hereto.

5.2 The Developer specifically reserves the right to consider this condominium as an expandable condominium as that term is defined and provided for in K.S.A. 58-3102(1), 58-3106, 58-3111, 58-3115(b) and such other provisions of the Kansas Apartment Ownership Act as it now exists or may hereafter be amended.

In connection with the Developer's reservation within this Declaration to consider this condominium as an expandable condominium, the Developer expressly reserves the option to expand such condominium by later amendment in accordance with requirements of law.

The following described properties are those to which this reservation of rights for an expandable condominium expressly apply.

(a) That real estate graphically described on Exhibit "C" attached hereto and incorporated herein by reference, as if set out in full herein and literally described as follows:



A tract of land located in the northwest quarter of Section 9, Township 12 South, Range 15 East of the 6th P.M., City of Topeka, Shawnee County, Kansas, more particularly described as follows:

Commencing at the southwest corner of Lot 13, Block A, John O. Allen Subdivision No. 2, City of Topeka, Shawnee County, Kansas; thence on Az 87 degrees 58 minutes 55 seconds, 758.24 feet along the South line of said lot to the centerline of a utility easement, said point being the POINT OF BEGINNING; thence on Az 357 degrees 58 minutes 55 seconds, 117.00 feet; thence on Az 267 degrees 58 minutes 55 seconds, 221.00 feet; thence on Az 357 degrees 58 minutes 55 seconds, 304.00 feet; thence on Az 267 degrees 58 minutes 55 seconds, 40.28 feet; thence on Az 357 degrees 58 minutes 55 seconds, 99.40 feet to a point on the North line of said lot; thence 15.00 feet easterly along said North line around a curve to the left having a radius of 280.00 feet, a central angle of 3 degrees 04 minutes 10 seconds, a chord of 15.00 feet and a chord Az of 89 degrees 31 minutes 00 seconds; thence on Az 87 degrees 58 minutes 55 seconds, 182.78 feet along said North line; thence 13.81 feet southeasterly along said North line around a curve to the right having a radius of 15.00 feet and a central angle of 53 degrees 07 minutes 48 seconds; thence 83.37 feet along said North line to the northeast corner of said lot around a curve to the left having a radius of 60.00 feet and a central angle of 79 degrees 36 minutes 36 seconds; thence on Az 151 degrees 30 minutes 07 seconds, 554.46 feet along the East line of said lot to the southeast corner of said lot; thence on Az 267 degrees 58 minutes 55 seconds, 270.48 feet along said South line to the point of beginning and containing 3.78 acres, more or less.

(b) That real estate graphically described on Exhibit "D" attached hereto and incorporated herein by reference, as if set out in full herein and literally described as follows:

A tract of land located in the northwest quarter of Section 9, Township 12 South, Range 15 East of the 6th P.M., City of Topeka, Shawnee County, Kansas, more particularly described as follows:

COMMENCING at the Southwest corner of Lot 13, Block A, John O. Allen Subdivision No. 2, City of Topeka, Shawnee County, Kansas; thence on Az 87 degrees 58 minutes 55 seconds, 237.24 feet along the South line of said lot to the POINT OF BEGINNING; thence on Az 357 degrees 58 minutes 55 seconds, 150.31 feet; thence on Az 58 degrees 05 minutes 20 seconds, 91.53 feet; thence on Az 357 degrees 58 minutes 55 seconds, 44.07 feet; thence on Az 87 degrees 58 minutes 55 seconds, 220.64 feet; thence on Az 177 degrees 58 minutes 55 seconds, 123.00 feet; thence on Az 87 degrees 58 minutes 55 seconds, 221.00 feet to the centerline of a utility easement; thence on Az 177 degrees 58 minutes 55 seconds, 117.00 feet along said centerline to a point on said South line; thence on Az 267 degrees 58 minutes 55 seconds, 521.00 feet along said south line to the point of beginning, containing 2.12 acres, more or less.

(c) That real estate graphically described on Exhibit "E" attached hereto and incorporated herein by reference, as if set out in full herein and literally described as follows:

A tract of land located in the northwest quarter of Section 9, Township 12 South, Range 15 East of the 6th P.M., City of Topeka, Shawnee County, Kansas, more particularly described



as follows:

BEGINNING at the southwest corner of Lot 13, Block A, John O. Allen Subdivision No. 2, City of Topeka, Shawnee County, Kansas; thence on Az 359 degrees 11 minutes 30 seconds, 153.52 feet along the West line of said lot; thence 88.48 feet northerly along said West line around a curve to the right having a radius of 265.00 feet and a central angle of 19 degrees 07 minutes 47 seconds; thence on Az 87 degrees 58 minutes 55 seconds, 223.11 feet; thence on Az 148 degrees 05 minutes 20 seconds, 74.98 feet; thence on Az 238 degrees 05 minutes 20 seconds, 49.53 feet; thence on Az 177 degrees 58 minutes 55 seconds, 150.31 feet to a point on the South line of said lot; thence on Az 267 degrees 58 minutes 55 seconds, 237.24 feet along said South line to the point of beginning, containing 1.33 acres, more or less.

As the Developer shall desire to expand this condominium by amending this Declaration to include any or all of the foregoing described tracts of real property, the same shall be done by written amendment to this Declaration of condominium properly executed and recorded in accordance with the requirements of the Kansas Apartment Ownership Act, as amended. Further, such written amendment to Declaration of Condominium shall be executed and recorded by the Developer and the Board of Directors of the Pheasant Run Condominium Homeowners Association, Inc. Such amendment to Declaration shall be considered as properly executed and with proper authority, if executed by the Developer or its lawfully authorized agent and pursuant to a vote of the majority of the Directors of the Pheasant Run Condominium Homeowners Association, Inc. at the time of the conversion and amended declaration filing.

5.3 Provision for Reallocation and Alteration of Interests in Common Areas Pursuant to Amendment under Expandable Condominium

Until an amendment to this Declaration is executed and recorded by the Developer and the Board of Directors of the Association, as herein provided, no interest in the common areas and facilities herein provided in this Declaration shall be allocated to any proposed condominium to be included in any of the expandable condominium property hereinabove described.

5.4 The Developer expressly reserves the right to reallocate and alter undivided interests in the common areas and the facilities after units are constructed upon additional land pursuant to this expandable condominium provision. Such reallocation and alteration of undivided interests in the common areas of the entire units then within this Declaration of Condominium or its amendments, shall be included in any such amendment to this Declaration as executed by the Developer and the Board of Directors of the Pheasant Run Condominium Homeowners Association, Inc. The Board of Directors of this Association



shall be authorized to execute such amendment containing the reallocation and alteration in the same manner as the authority for the original execution of the amendment as heretofore provided. Provided, that the reallocation and alteration of the undivided interest in the common areas and facilities shall be done on the same basis and formula as the units provided for herein and which have received undivided interests in the common areas being developed in this original Declaration. Provided, further, that such reallocation or alteration of undivided interests among the unit owners of the original Declaration and those of the amended Declaration shall not require the consent of all of the owners of the original units apart of this Declaration or all of the owners of the units to be included in the amended Declaration for the expandable condominium.

5.5 Design and Construction Criteria of Units in Expandable Condominium

The Developer and the Board of Directors of the Association, at the time of the filing of any amended Declaration expanding this condominium, shall undertake to see that additional units constructed in such expandable condominium shall be substantially similar in design, configuration and exterior appearance as those units being constructed pursuant to this original Declaration of Condominium. This declaration of intention shall not be interpreted to bind the Developer and/or the Home Owners Association to any specific design or construction criteria.

5.6 Total Number of Units in each of the Potential Expandable Condominium Declarations

The total number of apartment units which may be constructed by the Developer upon the expandable condominium real property described in paragraph 5.2(a) hereof, shall be thirty-six (36) units.

The total number of apartment units which may be constructed by the Developer upon the expandable condominium real property described in paragraph 5.2(b) hereof, shall be thirty-six (36) units.

The total number of apartment units which may be constructed by the Developer upon the expandable condominium real property described in paragraph 5.2(c), hereof, shall be twenty-four (24) units.

Provided, that in no event shall the maximum number of units of this original Declaration, as well as the three potential expanded amended Declarations, exceed One Hundred and Twenty-Four (124). Provided, that the Developer does reserve the right to change the development plan of any expanded condominium amended Declarations by decreasing the number of apartments.



5.7 Deadline for Filing Amended Declarations of Expandable Condominium

Any amended Declaration relating to the real property described hereinabove as expandable condominium property must be filed on or before the 1st day of April, 1986, pursuant to the requirements of K.S.A. 58-311(13) (c), as amended.

5.8 Limitations on Property to be Included in Expanded Condominium

Subject to the rights of the Developer and the Pheasant Run Condominium Homeowners Association, Inc., as hereinabove provided, there shall be only permitted three expansions by amended Declaration permitted hereunder. Those three permitted expansions shall be as to those three parcels of real property hereinabove described in paragraph 5.2 hereof. Provided, that at any one time pursuant to appropriate authority and execution and filing any one, two or all of those parcels of real property may be included in this condominium by appropriate filing of an amended Declaration or Declarations.

5.9 The Developer expressly reserves the right in expanding this condominium by amended Declarations to develop additional common areas on or as a part of any such expanded condominium property and to develop limited common areas and facilities upon any portion of that additional land at its sole discretion. Provided, that such expandable condominium property will include common areas for private streets and ways to insure adequate ingress and egress for owners of apartment units in such expandable condominium areas and such private streets and ways shall be available as common facilities to the owners of apartment units in this original Declaration of Condominium.

5.10 Consequence of Failure to File Amended Declarations Expanding Condominium

In the event the Developer and/or Pheasant Run Condominium Homeowners Association, Inc. shall fail to file within the time limit hereinabove provided for any amended Declaration properly executed wherein additional properties as herein described are added to the properties which are the subject of this original Declaration of Condominium pursuant to the expandable condominium provisions, then all of such property, hereinabove described as potential or a part of an expandable condominium shall be free and clear of any restrictions, provisions, or other limitations of this Declaration of Condominium or any of its amendments. Provided, further, that nothing contained herein shall mean to impose upon any one or more of the three described parcels of real estate in paragraph 5.2, hereof, any current restriction or other limitations as a result of the provisions of this



Declaration of Condominium and its reference to such parcels of real estate as potential expandable condominium property. The Developer and/or future owner of such property shall be free at any time to proceed with the sale, development or other disposition and use of such property, without any limitations as a result of the provisions hereof. None of the owners of apartment units making up this original Declaration of Condominium shall have any interest or obligation in connection with any of such expandable condominium property, including, but not limited to, liability or obligation for any expenses in connection with such property until such time as the same shall be declared as an expanded condominium through the filing of an amended Declaration to this original Declaration of Condominium.

#### 5.11 Consent of Unit Owners and Mortgagees not Required

Except for the approval of a majority of the Board of Directors of the Pheasant Run Condominium Homeowners Association, Inc., as hereinabove provided, nothing herein contained relating to the expansion of this original Declaration of Condominium by appropriate amendment shall require the consent or approval of any of the apartment owners in this original Declaration of Condominium or mortgagees of those owners or other parties in interest as to any location, plans, reallocation of common ownership percentages, building specifications, number of units, exterior or interior architectural design of additional buildings or apartments to be constructed on such expandable condominium land.

#### 6. LIMITED COMMON AREAS AND FACILITIES

The decks and patios described in Paragraph 2, 3 and 4 hereof as appertaining to each unit shall be known as limited common areas as allowed in K.S.A. 58-3102. The apartment unit to which such patio or deck is adjacent shall be entitled to the exclusive use of such.

#### 7. DESCRIPTION AND DECLARATION OF COMMON AREAS AND FACILITIES AND PROVISIONS RELATING THERETO

7.1 The common areas and facilities in which each of the apartment owners of this Declaration of Condominium shall have an undivided interest in the amount herein after set out shall consist of all of the property except the units owned by the individual apartment owners as such property is described in Exhibits "A" and "A-1", "A-2", "A-3", "A-4", "A-5", "A-6", "A-7", and "B" attached hereto, and paragraphs 3 and 4 hereof, further, that such common areas and facilities will include the land shown on such Exhibits, as well as all central utility facilities including primary utility lines serving



each of the buildings contained within the condominium. Further, the common areas and facilities shall include the exterior and perimeter walls of each of the buildings and the units located therein internally to the exterior face of the wallboards within each apartment unit. Further, such common areas and facilities shall include all exterior hallways, stairways, porches, steps, walkways, parking areas, basement in Building 7, including driveways, plantings and landscaping, grass, and private streets and ways, and any and all other portions of real or personal property not herein specifically described contained within the limits of that property described and declared as condominium property in Exhibit "A" hereto except that portion previously declared as individual unit property and subject to the ownership by apartment unit owners. All structural components, including beams, trusses, joists, studs, roof services, shingles, flues and other structural components shall be considered as common areas and facilities. Further, the common areas and facilities shall include all easements herein granted for private ways and roads and easements given to public utility companies pursuant to this Declaration and any such easements that may later be abandoned or reconveyed.

#### 7.3 Conveyance of Common Areas and Facilities

The developer will simultaneously with this filing offer for sale the condominium apartment units created by this Declaration as construction on the units is completed. That all such conveyances, when made by the Developer, shall be subject to the provisions of this Declaration. That along with each conveyance of a condominium apartment unit the Developer will convey a deck or patio, as the case may be, as limited common area appurtenant to the unit and an undivided interest in the common areas and facilities as that percentage interest is determined and established for each apartment unit in Paragraph 7.8 hereof. Each apartment unit owner's undivided interest in the common areas shall be subject to the mutual and reciprocal easements of use of such common areas and facilities by all other apartment owners, pursuant to Paragraphs 7.6 and 12.1 hereof. Further, such undivided interests and their use and enjoyment by the individual apartment unit owners shall be subject to the management, operation, maintenance, rules and regulations pertaining to the common areas and facilities by the Pheasant Run Condominium Homeowners Association, Inc., as herein set out.

There are to be certain specific improvements constructed upon said common areas and facilities by the Developer in addition to those walks, stairwells, porches, steps, parking areas, driveways and roads graphically depicted upon Exhibits "A",



"A-1" through "A-7" and "B", attached hereto. Such additional facilities will be completed by the Developer prior to the 1st day of January, 1980, and will include one swimming pool, one cabana clubhouse, approximately 40 feet by 20 feet, and concrete deck and fencing surrounding said pool. Every member of the Pheasant Run Condominium Homeowners Association, shall have a right to the use and enjoyment of these specific common areas and the facilities to be constructed thereon and that easement of enjoyment and their undivided interest in said common areas shall be appurtenant to and pass with the title of each apartment unit within the condominium. Each apartment unit owner, their families, visitors, guests and successors in interest shall have the right to the use of such common areas and facilities, including the pool concrete deck and cabana clubhouse. Provided, that the Board of Directors of the Pheasant Run Condominium Homeowners Association, Inc. shall have the right to prescribe rules and regulations for the use and enjoyment of the pool, concrete deck and cabana clubhouse by the members of the Association. The power and authority and procedure of the Homeowners Association for the promulgation and enforcement of such rules and regulations for the use of the common areas and facilities will be specifically described in the By Laws of the Association to be attached hereto as an Exhibit and to be recorded along with this Declaration of Condominium.

#### 7.4 Location of Pool, Cabana Clubhouse and Concrete Deck

Attached hereto as Exhibit "F" and incorporated herein is a plat of survey by Bartlett and West, Consulting Engineers, P.A., which plat of survey shows graphically the general description of the location of the swimming pool, concrete deck and cabana clubhouse to be constructed as herein provided by the Developer for the use and enjoyment of the parties above referred to.

#### 7.5 Construction Criteria for the Developer

The swimming pool, concrete deck and fencing and cabana clubhouse will be constructed by the Developer in a good and workmanlike manner, prior to the date hereinabove provided for in compliance with the applicable zoning laws and building permit laws of the City of Topeka. The deadline, hereinabove provided for, for the construction of such facility shall be extended from time to time as shall be required because of delays occasioned to the Developer through no fault of it. Such extensions due to unavoidable delays shall include, but not be limited to, labor shortages, material shortages, strikes,



acts of God, or other occurrences or conditions which shall not be caused by the Developer or his agents or employees.

#### 7.6 Passing of Right and Enjoyment of Use of Common Areas and Facilities

Each of the apartment owners of the units which are a part of this Declaration of Condominium shall have the right to use and enjoy all of the common areas and facilities in common with the other apartment owners. Further, this right of use and easement and access to the common areas and facilities shall be considered to pass with the title of any of the apartment units as the same are conveyed or otherwise alienated just as shall the undivided interest in the common areas and facilities, membership in the Homeowners Association and the title to the condominium unit.

Provided, that with the sale of each condominium apartment unit there must also be conveyed the limited common area appurtenant to the unit and the percentage undivided interest in the common areas herein assigned to that unit or as the same may be hereafter altered by the expansion of this condominium.

There shall be certain limitations upon the easement and the right to use and enjoy the common areas and facilities by the apartment unit owners as follows:

(a) Rules and Regulations as the same may be promulgated and enforced by the Homeowners Association's Board of Directors as herein provided.

(b) The use and enjoyment of such common areas and facilities may be suspended from time to time upon certain terms and conditions, all as prescribed by the Board of Directors of the Homeowners Association, which said terms and conditions shall include, but not be limited to, the failure by any apartment unit owner to pay the monthly charge or assessment for common area maintenance and services.

(c) The Board of Directors of the Homeowners Association shall also be authorized to prescribe other disciplinary procedures to be administered against apartment unit owners or their guests, invitees and other persons entitled to the use of the common areas for violations of the rules and regulations prescribed. Provided, that in no event will any apartment owner be prevented from ingress and egress along the private streets, ways, sidewalks, driveways, porches and stairwells, connecting their individual apartment unit with the public streets, hereinabove described.

(d) Should it become necessary from time to time the Board of Directors of the Association shall be authorized to encumber such common areas with public utility or other easements necessary for the operation and maintenance of the condominium development. Provided, further, that the authority to commit portions of the common areas and facilities herein provided for to use for public utility purposes shall include such easements as may be necessary to facilitate the development of expanded condominium real estate, as hereinabove provided for.

#### 7.7 Succession to Ownership of Common Areas hereinafter Developed

In the event that any of the common areas and facilities hereinabove provided for



shall not have been constructed at the time of the filing of this Declaration of Condominium and shall subsequently be completed by the Developer, then each of the owners of the apartment units which are a part of this condominium development shall succeed to an undivided interest in such additional common area facilities in the same ratio and to the extent as they are hereinafter given percentage interests in the common areas and facilities existing at the time of the recording of this Declaration of Condominium.

**7.8 Percentage Interest of Apartment Unit Owners in Common Areas and Facilities**

The percentage undivided interest which the individual owners of the apartment units within this Declaration of Condominium will have in the common areas and facilities shall be as follows:

<u>UNIT DESCRIPTION</u>	<u>PAR VALUE (in points)</u>	<u>PERCENTAGE INTEREST</u>
<b>Building No. 1, 5849 Southwest 22nd Terrace:</b>		
Unit No. 1	3.57	3.57%
Unit No. 2	3.57	3.57%
Unit No. 3	3.57	3.57%
Unit No. 4	3.57	3.57%
<b>Building No. 2, 5851 Southwest 22nd Terrace:</b>		
Unit No. 1	3.57	3.57%
Unit No. 2	3.57	3.57%
Unit No. 3	3.57	3.57%
Unit No. 4	3.57	3.57%
<b>Building No. 3, 5855 Southwest 22nd Terrace:</b>		
Unit No. 1	3.57	3.57%
Unit No. 2	3.57	3.57%
Unit No. 3	3.57	3.57%
Unit No. 4	3.57	3.57%
<b>Building No. 4, 5859 Southwest 22nd Terrace:</b>		
Unit No. 1	3.57	3.57%
Unit No. 2	3.57	3.57%
Unit No. 3	3.57	3.57%
Unit No. 4	3.57	3.57%
<b>Building No. 5, 5853 Southwest 22nd Terrace:</b>		
Unit No. 1	3.57	3.57%
Unit No. 2	3.57	3.57%
Unit No. 3	3.57	3.57%
Unit No. 4	3.57	3.57%
<b>Building No. 6, 5857 Southwest 22nd Terrace:</b>		
Unit No. 1	3.57	3.57%
Unit No. 2	3.57	3.57%
Unit No. 3	3.57	3.57%
Unit No. 4	3.57	3.57%



<u>UNIT DESCRIPTION</u>	<u>PAR VALUE</u> (in points)	<u>PERCENTAGE INTEREST</u>
Building No. 7, 5861 Southwest 22nd Terrace:		
Unit No. 1	3.58	3.58%
Unit No. 2	3.58	3.58%
Unit No. 3	3.58	3.58%
Unit No. 4	3.58	3.58%
TOTAL PERCENTAGE		100.00%

Pursuant to the requirements of K.S.A. 58-3106 each apartment unit owner shall own an undivided interest in the amount of the percentage set forth above, in the common areas and facilities as a tenant in common with all other unit owners. Such interest in the common areas and facilities shall be considered as a part of the ownership of the apartment unit and no interest in the common area facilities of an apartment unit can be, by deed, plat or otherwise, subdivided, separated, or divided into smaller units than those herein created and as shown by the Exhibits attached hereto, except pursuant to the expandable provisions of paragraph 5 and pursuant to paragraph 17 hereafter.

7.9 Each apartment unit shall be entitled to membership in the Pheasant Run Condominium Homeowners Association, Inc. with a corresponding membership percentage and vote equal to the percentage set out in paragraph 7.8 hereof. The terms and conditions of said membership and the exercise of the voting privileges belonging to the apartment unit owners shall be such as shall be prescribed by the By Laws of the Home Owners Association which are filed simultaneously with this Declaration and attached hereto as Exhibit "G".

#### 8. RESTRICTIONS ON THE USE, SALE, LEASE OR OTHER TRANSFER OF APARTMENT UNITS AND UNDIVIDED INTEREST IN COMMON AREA

The following itemized paragraph shall constitute restrictions imposed upon the use, sale, lease, or other transfer of apartment units and the corresponding undivided interest in common areas and facilities within this condominium project.

(a) Each of the apartment units, a total of twenty-eight (28) located in Buildings 1 through 7, as shown on Exhibits "A-1" through "A-7" attached hereto, are intended to be used and occupied exclusively as single-family residences. Further, the occupancy at one time of any condominium apartment unit shall be limited to a maximum of two (2) persons over the age of eighteen and two (2) persons under the age of eighteen.



(18). Provided, further, that at no time may a person(s) under the age of eighteen (18) occupy any apartment unit unless there is, at the same time, at least one (1) person over eighteen (18) occupying the apartment unit. No apartment unit owner or other party in their behalf or stead shall permit any multiple family, office, commercial or other more intensive use of any part or all of such apartment units or the common area facilities. Any such attempted use shall be prohibited by the Pheasant Run Condominium Homeowners Association, Inc. and the enforcement of such violation and the penalties therefor shall be prescribed by the Rules and Regulations to be established, promulgated and enforced by said Home Owners Association.

(b) Any apartment unit owner, other than the Developer, who wishes to sell or lease his or her or its unit, including any lessee who wishes to sublet, assign or otherwise hypothecate his, her or its leasehold interest to any person or other entity shall first give written notice of any such proposed sale, lease, assignment or sublease to the appropriate agent for the Board of Directors of the Pheasant Run Condominium Homeowners Association, Inc. with such written notice addressed to the Board of Directors of the Association. Provided, that such notice shall be given not less than twenty (20) days preceding the date of the intended sale, lease, assignment or sublease of lease. Provided, further, that such written notice shall set forth the names of the intended parties, the time and manner of closing and other terms and conditions of performance as they relate to this condominium.

In the event that there are past due and unpaid common area expense assessments assessed against such apartment unit, then the Board of Directors of the Home Owners Association or its Managing Agent shall notify the present owner of such and may proceed to file an appropriate lien with the Register of Deeds of Shawnee County, Kansas, pursuant to the provisions of K.S.A. 58-3123. Provided, that such lien will be subject to the provisions of paragraph 14.9(b) hereafter.

#### 9. INSURANCE TO BE PROVIDED BY THE ASSOCIATION

One of the obligations of the Pheasant Run Condominium Homeowners Association will be to provide certain public liability and property damage insurance for the benefit of the members of the Association. The Board of Directors of the Association shall be responsible, subject to the terms of this Declaration and its By Laws, for the solicitation, purchase, maintenance of premiums and other matters for such insurance. The insurance policies for public liability and property damage shall be procured to cover all of the common areas and facilities, including structural elements of all apartment buildings and including the recreational facilities, such as the swimming pool, cabana clubhouse and concrete deck to be constructed in this condominium project. Provided, that such insurance in the limits and in the amounts hereinafter provided for shall be acquired and maintained by the Association assuming that such policies in the form and character desired are reasonably available at reasonable premium cost to the Association. The responsibility and power of the Association in all matters relating to



these insurance obligations shall be carried out by the Association's Board of Directors without requiring any vote of the membership except as provided for in Paragraph 9.8 hereof.

9.1 Public Liability and Property Damage Insurance

If reasonably available, the Association shall maintain public liability and property damage insurance insuring all of the common areas and facilities owned and maintained by the Association in the condominium project. The policy limits on such insurance shall be in an amount fixed by the Board of Directors; provided, that in no event shall they be less than ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) for injury to any one person, THREE HUNDRED THOUSAND DOLLARS (\$300,000) for injury to more than one person in any one accident or occurrence and TWENTY THOUSAND DOLLARS (\$20,000.00) for property damage on any one occurrence.

9.2 Officers' and Directors' Insurance

If the Board of Directors of the Association shall so elect and the same shall be available at reasonable premium cost, in the opinion of the Board of Directors, the Board of Directors shall be authorized to procure and maintain officers and directors errors and omissions insurance insuring any or all of the directors, officers, employees, agents, managing officers or other responsible persons of the Association against liability asserted against them or the Association for acts caused by them or operations of the Association. Such insurance shall be at such limits and with such deductible, if desirable, as the Board of Directors of the Association shall determine.

9.3 Workmen's Compensation Insurance on Employees

In the event that the Board of Directors shall determine that it is desirable to maintain Workmen's Compensation Insurance on the employees of the Association or should it be determined that, pursuant to Kansas law, such is required of the Association, then the Board of Directors shall be authorized to procure appropriate Workmen's Compensation Insurance in such limits and amounts as they shall deem reasonable and in compliance with the requirements of Kansas law, if applicable.

9.4 Insurance on the Structures and Improvements of the Condominium

Each of the buildings described in this Declaration and shown on Exhibits "A-1" through and including "A-7", and the cabana clubhouse, swimming pool and concrete deck, shall be insured through an appropriate insurance company by the Association in an amount equal to the maximum insurable replacement value of such improvements, excluding foundation replacement costs against loss or damage.



whether caused by fire or other acts of God or natural hazards, as typically described in a standard coverage endorsement in approved casualty insurance policies issued in the State of Kansas. Such insurance on these improvements shall be maintained for the benefit of the Association, each and all of the apartment unit owners, their mortgagees and the Association, as their respective interests may appear.

The character of the policies, the deductible, if any, and the maximum insurable limits of such policies on the improvements shall be reviewed annually by the Board of Directors of the Association. Any decision made by the Board of Directors by a majority vote of it in regard to the character of such insurance policies shall be binding upon each of the members of the Association, their mortgagees and other parties in interest.

The casualty insurance policies herein provided for shall be procured and maintained by the Association for the benefit of it, the apartment unit owners and their mortgagees as their interest may appear. The Association shall retain the physical control and possession of all of such policies with the same being indexed and available for review by any of the apartment unit owners, their mortgagees or other parties in interest at any reasonable time.

#### 9.5 Collection and Disposition of Loss Proceeds from such Casualty Insurance

In the event that a loss shall occur, the Board of the Directors of the Association, through its appropriate officers, shall be responsible for making claim on the appropriate insurance policy for the full amount of the insurance proceeds payable as a result of such loss. In the event that proceeds are received as a result of loss to improvements in the common areas, then such proceeds shall be held for the benefit of the Association and shall be applied to the replacement of such common areas or facilities as hereinafter provided. Any loss proceeds received by the Association on such policies, as a result of loss occurring to individual apartment units, shall be held for the benefit of the owners of such units, their mortgagees or other parties in interest. The payout of such funds for the replacement or repair of the apartment unit damage shall be in the sole discretion of the Board of Directors of the Association. Provided, that if the repair or replacement is not done, is economically not feasible, or there should be excess proceeds over cost of repair or replacement, then the disposition of the proceeds shall be in accordance with Paragraphs 9.6(a) and 9.8 hereof.

In the event that damage does result to a mortgaged apartment unit and proceeds



are received by the Association pursuant to a claim on the insurance carrier for such damage, then those proceeds shall be held for the benefit of the apartment unit owner and the mortgagee of such unit. The fact that the mortgagee is named as a party in interest on the loss payable clause shall not entitle it to the right to determine whether or not the damaged property will be repaired or replaced. Further, no mortgagee shall have the right to apply or have applied to the reduction of its mortgage debt, any of the insurance proceeds except as herein provided.

#### 9.6 Distribution of Insurance Proceeds Following Receipt

Proceeds of insurance policies received by the Association for the benefit of itself, the apartment unit owners and their respective mortgagees and other parties in interest, shall be distributed in the following manner.

(a) As the damage, whether to common areas and facilities, limited common areas, or individual apartment units, for which the proceeds were paid, are to be reconstructed or repaired, then the insurance proceeds received by the Association shall be first utilized to defray or pay the costs of such reconstruction or repair. Any proceeds remaining from those insurance policies after paying the cost of construction or repair, shall be, in the case of common areas and facilities, held in the common expense of the Association, or in the case of apartment unit repair or reconstruction, shall be distributed to the owners, mortgagees or other parties in interest as their interest may appear. In ascertaining and making distribution of the excess proceeds to the apartment owners and their mortgagees and parties in interest, the Association shall be entitled to rely upon the records of the Register of Deeds of Shawnee County, Kansas, to ascertain the exact ownership and mortgage interest of all parties in such apartment unit. These provisions providing for the payment of excess insurance proceeds to the apartment unit owner and their mortgagee shall be an obligation which is enforceable by the respective mortgagees.

9.7 Each of the apartment unit owners, their mortgagees and other parties in interest, do hereby constitute the Association, through its Board of Directors, as their irrevocable agent, for the purpose of procuring, maintaining and servicing such insurance policies on the individual units, including the processing and consummation of claims. The Board of Directors, by a majority vote, shall have the power and is irrevocably appointed as the agent for each unit owner and their mortgagees and parties in interest to adjust any claim that may arise as a result of loss occasioned to an individual apartment unit and to execute and deliver appropriate releases to the insurance company following the payment of the claim.

#### 9.8 Costs of Reconstruction or Repair of Common Areas or Apartment Units

The proceeds of insurance collected from a casualty insurance policy by the Association and any sums which may be received by the Association from collections



of assessments against individual apartment unit owners to the extent of excess costs above insurance proceeds shall constitute a reconstruction fund and shall be disbursed for reconstruction and repair in the following manner and in the order set out below.

(a) First, to the cost of construction and repair of the improvements located in the common areas, which are owned by the Association to the extent that the proceeds received represent a claim made for those losses on common area property.

(b) Second, to the cost of reconstruction or repair of the damaged apartment units and limited common areas in the proportion which the damage to each of such apartment units bears to the damage from that singular loss to all apartment units.

(c) Any surplus of funds remaining shall be paid to the damaged apartment unit owners or their respective mortgagees as their interest may appear at the time in the same proportion, each to the other, as the damage to each apartment unit bears to the total damage done to all apartment units by that occurrence.

(d) In the event that the cost of reconstruction or repair of an individual apartment unit shall exceed the amount which is allocated to that reconstruction or repair of that particular unit, based upon the percentage relationship as above set forth, then the excess costs shall be paid by the unit owner and added to the construction funds specifically designated for construction or repair of that particular unit. In order to ascertain whether the cost of reconstruction or repair of the individual apartment unit shall exceed the amount allocated, the Board of Directors of the Association may employ the services of a licensed architect or licensed professional engineer to assist it in making such determination.

(e) In the event there is an excess cost of reconstruction over policy proceeds available, the Board of Directors of the Association shall be that party responsible for making the conclusive decision about whether the excess cost will be borne by the Association and its membership as a whole, or by the individual apartment unit owner. In the event that such a determination is made by the Board of Directors of the Association in behalf of the Association, then a special assessment may be levied against the members of the Association in the same relationship as their ownership percentages exist at the time and the proceeds received from such special assessment shall be added to the construction fund and devoted to the purposes intended. In no event shall those special assessments, after collected, be paid out until all of the insurance proceeds are used and all claims against the insurance companies have been made. Provided, that in the event that the Board of Directors of the Association and the insurance company are not able to reach a satisfactory agreement on the payment of submitted claims, such failure to receive the claimed proceeds because of that dispute, shall not delay or preclude the Board of Directors of the Association from levying a special assessment against the members for the purpose of obtaining those funds in excess of the intended claim proceeds.

(f) In the event that there are balances remaining in the construction fund after the payment of all costs of reconstruction, repair and expenses of architects and engineers, the balance shall be distributed to the apartment unit owners, their mortgagees, or



other parties in interest, in the same proportion as the original construction fund was distributed. Provided, that the Association will have the right to set off against the payment of any excess funds to the apartment unit owner, their mortgagees or other parties in interest, any amounts which, at that time, remain owed by the apartment unit owner for previously assessed but unpaid common expenses, whether regular monthly charges or special assessment balances.

(g) Provided, that in no event will the Homeowners Association or its Board of Directors be permitted to use any hazard insurance proceeds for losses to any condominium property (whether to units or to common area facilities) for other than repair, replacement or reconstruction of such condominium property, except as provided by Kansas Statute, unless at least two-thirds (2/3) of the first mortgagees (based upon one vote for each first mortgage owned) or owners (other than the developer) of the individual condominium units have given their prior written approval. In no event will the hazard insurance proceeds for losses to any condominium property (whether to apartment unit or common area facilities) be used for other than repair, replacement, or reconstruction of such condominium property unless authorized by written consent of at least two-thirds (2/3) of the owners, other than the developer, or first mortgagees (based upon one vote for each first mortgage owned) of the individual condominium units.

#### 9.9 Association to employ Architect or Engineer

In the event there is a casualty loss to any of the common area facilities and/or apartment units, the Board of Directors, for and on behalf of the Association, shall be in charge of all reconstruction activities on common area facilities and/or apartment units. The employed licensed architect or licensed engineer shall provide certificates of substantial completion or progress payment certificates before the Board of Directors of the Association shall make any disbursements to third parties who will be providing labor and/or materials for the reconstruction of the facilities. Any reconstruction undertaken by the Association or any of the apartment unit owners shall, at all times, comply with the applicable building codes of the City of Topeka and any reconstruction or repair by third parties, whether on behalf of the Association in common areas and facilities or in behalf of the Association and individual apartment unit owners, mortgagees or other parties in interest, shall be done pursuant to a written contract with such provider of services and the form and content of such contract shall be approved by the Board of Directors of the Association prior to the commencement of any construction work by the contractor.

#### 10. PARTICULAR REQUIREMENTS OF CASUALTY INSURANCE POLICIES

Casualty insurance policies obtained by the Association for the benefit of all interested parties shall, to the extent possible, be in accordance with the following requirements:



(a) All policies shall, if possible, provide that they may not be cancelled or substantially modified, including, but not limited to, cancellation for non-payment of premium, without at least prior written notice being given to the Association and all named insureds on such policies thirty (30) days prior to any such cancellation or substantial modification. The phrase "named insured" for the purposes of this provision shall include all mortgagees and other parties in interest on the individual apartment units.

(b) All of the policies procured by the Association for the benefit of the interested parties shall be written by company or companies authorized to do business in the State of Kansas and in good standing with the Insurance Department of State of Kansas and will be highly rated companies.

(c) The Board of Directors, by a majority vote, shall be given the express authority to negotiate all losses and claims for such losses with the appropriate insurance companies as an agent for all named insureds on such policies.

(d) The provisions of any policies purchased by the Association pursuant to the requirements of this article, shall not require any provision requiring them to be brought into contribution with insurance policies which may be carried from time to time by the apartment unit owners or their mortgagees. Any provision in the Association's policies relating "to no other insurance" shall exclude any such policies owned by apartment owners or their mortgagees from consideration.

(e) All policies purchased by the Association shall contain an appropriate waiver of subrogation by the insurer as to any claims against the Association, its Board of Directors, its agents, its employees, the owners of individual apartment units or other parties in interest and of any defenses based upon co-insurance or invalidity arising out of or from the acts of the insured.

#### 10.1 Apartment Unit Owner's Ability to Purchase Additional Insurance

In the event the owner of any individual apartment unit so desires, they may obtain additional insurance at their own expense, including public liability insurance to cover accidents or injuries to persons or property occurring within their own individual apartment unit, and their deck or patio. Each individual apartment owner shall also have the authority to purchase insurance upon his or her property and additional improvements located within the individual apartment unit to the extent that they belong to the unit owner. Any such insurance policies purchased by the individual apartment unit owner shall contain the same waiver of subrogation provisions as shall be applicable and are hereinabove provided for on policies to be purchased by the Board of Directors of the Association. Likewise, such insurance shall be written by the same insurance company which is writing the policies for the Association or, in the alternative, these unit insurance policies shall provide that they shall be without contribution from other insurance companies.



The individual apartment unit owners should provide and maintain for themselves, at their expense, a home owner's policy typically written in behalf of tenants in landlord-tenant situations. The purpose for this recognition and advice is to enable the apartment owner to adequately insure against loss or damage the personal property located within the apartment unit, whether caused by acts of God, vandalism, malicious mischief, theft, or other insurable risks. In addition, such "tenant homeowner policies" should include coverage for additional living expenses in the event the apartment unit owner is dispossessed from the premises as a result of the loss, and should protect against the personal liability claims made against the owner by persons using the apartment. In the event any such policy is purchased by the apartment unit owner, then it should include a "condominium unit owner's endorsement" covering losses to improvements and betterments to the condominium unit made or acquired at the expense of the owner.

The Board of Directors of the Association shall be authorized to request the apartment unit owner to provide copies of any such insurance policies for their review to ascertain that such policies are not inconsistent with the provisions of this Declaration. In the event that such policies are inconsistent with the provisions of this Declaration or the insurance policies maintained by the Association in connection with the requirements herein set out, then the Association shall have the power to require that the individual apartment unit owner alter such insurance coverage to comply with the requirements herein set out.

The Board of Directors of the Association may, at the request of any individual apartment unit owner or mortgagee or other party in interest, provide an endorsement to any of the policies maintained by the Association showing the interest of the apartment unit owner or mortgagee or other parties in interest, as they may appear, and causing to be provided to the owners or mortgagees such certificates of insurance, as shall be necessary. The individual apartment unit owner and/or the mortgagee or other parties in interest shall reimburse the Association for the cost of providing any such endorsements or certificates of insurance.

#### 11. LOSSES OR DESTRUCTIONS AND RECONSTRUCTION OR REPAIR



In case of the damage or destruction to all or any part of the property of this condominium project, the insurance proceeds provided in paragraph 9 hereof, if sufficient to reconstruct the improvements, shall be applied to such reconstruction on such terms and conditions as hereinabove set out. In no event will the hazard insurance proceeds for losses to any condominium property (whether to apartment unit or common area facilities) be used for other than repair, replacement, or reconstruction of such condominium property unless authorized by written consent of at least two-thirds (2/3) of the owners, other than the developer, or first mortgagees (based upon one vote for each first mortgage owned) of the individual condominium units. The term "reconstruction" shall mean restoring the improvements to substantially the same condition as they existed immediately prior to the casualty loss. In any event, each of the individual apartment units and the common areas of the facilities shall have the same vertical and horizontal boundaries as they had preceding the loss and as are provided for in this Declaration of Condominium.

In the event that the proceeds from insurance coverage on such loss shall be insufficient to reconstruct the improvements, then the provisions for reconstruction and repair, as set out in a previous paragraph of this Declaration, shall be employed.

11.1 In the event of a casualty loss to the common area/facilities and limited common areas and/or individual apartment unit or units, then the same shall be repaired, rebuilt and restored, as nearly as possible, to their condition preceding the casualty. The insurance proceeds shall be applied to reconstruction according to the provisions of Paragraph 9 hereof. Any excess funds over the cost of construction, whether from common facilities insurance proceeds or apartment unit insurance, shall, likewise, be handled by the Association as provided for in Paragraph 9 hereof.

If, for any reason not provided for herein the apartment unit owners and Board of Directors of the Association shall determine not to reconstruct all or any portion of the property destroyed within ninety (90) days of the date of the damage or destruction to all or any part of the property, then and in that event, the provisions of K.S.A. 52-3126 shall be applied and utilized by the Association and the individual apartment unit owners.



their mortgagees and parties in interest. Provided, that this provision is not intended to diminish or lessen the stated obligation to repair and rebuild whatever is damaged, whether common area facilities and/or apartment units, as stated herein.

## 12. PROVISIONS FOR EASEMENTS AND ADJUDICATION FOR ENCROACHMENTS

### 12.1 Utility Easements in Common Areas.

Easements are hereby declared, granted and established for utility purposes, including the right of the holder of such easements to install, lay, maintain, repair and replace all utility services in said easement, including, but not limited to, water mains and pipes, sewer and sanitary lines, gas mains and service lines, telephone wires and equipment, electrical conduits, wires, cables and equipment, along, under and over any of the easements herein granted, in any part of the common areas and facilities and limited common areas for this condominium project.

### 12.2 Adjudication of Encroachments

If, through construction, reconstruction, alteration, settlement or design, any of the common area facilities, limited common areas, or the individual apartment units or buildings in which they are located, encroach or shall hereafter encroach upon any part of an individual apartment unit, or in the event that any individual apartment unit or limited common areas shall encroach upon any common area or other facility, there is hereby established a maintenance and repair easement as to such property to the extent of such encroachment for the benefit of the owners in the individual apartment unit, so long as the encroachment continues to exist or for the benefit of the Homeowners Association, so long as the encroachment continues to exist. Provided, that there shall not be given any valid encroachment easement for the purpose of maintenance and repair if, in fact, the encroachment was caused by the willful and deliberate conduct of an owner of an individual apartment unit.

These easements granted by reason of encroachments occurring shall be considered to be appurtenant and running with the land and shall inure to the benefit of all of the owners of individual apartment units, their successors, mortgagees or other parties in interest and the Homeowners Association, the Developer and any other parties now in interest or hereafter in interest.



These easements herein granted, whether in this section or other sections for utilities or other uses including encroachments, shall be properly reserved so long as all deeds of conveyance, mortgages and other instruments affecting the title to individual apartment units or the common areas shall make reference and recite the existence of such easements, and it shall not be necessary that such deeds, conveyances or mortgages recite specifically the description of any such easements.

**13. RESTRICTIONS ON THE USE AND OCCUPANCY OF INDIVIDUAL APARTMENT UNITS AND COMMON AREAS**

Each of the apartment units in this condominium, the limited common areas, and the common areas and facilities in which each apartment unit shall have an undivided interest shall be occupied and used at all times in accordance with the following restrictions, as well as set out in Paragraph 8 hereof:

(a) No part of the property shall be used for any purpose other than that for which it was designed and in the case of individual apartment units, for single-family housing.

(b) All owners and occupants shall abide at all times with the requirements of the ordinances of the City of Topeka, including, but not limited to, zoning ordinances applicable to the real property located within this condominium.

(c) No business, trade, occupation, or profession of any kind, or any religious, educational, commercial or other eleemosynary activity shall be carried on or conducted in any part of the property including the individual apartment units and the common areas and facilities.

(d) All signs "for sale" or "for rent" or advertising or other displays shall not be permitted to be located on any of the individual apartment units or the common areas in this condominium without the prior approval of the Board of Directors of the Association or its designated managing agent. Provided, that such consent and approval shall not be unreasonably withheld by the Association and, provided, further, that any mortgagee who shall succeed to the title of any individual apartment unit, shall have the right to place "for sale" or "for rent" signs on such apartment unit.

(e) No activity, occupancy or other use of any of the individual apartment units or the common areas of the facilities shall be carried out by any person, occupant, owner or lessee which shall cause an increase in the rate of insurance charged for the public liability and property damage insurance on the facilities and their contents without the prior written consent of the Board of Directors of the Association. Likewise, no owner, mortgagee, or other party in interest shall keep anything or do anything in their individual apartment units or the common areas within the condominium which shall result in the cancellation of any insurance maintained by the Association or which would be in violation of any state, federal or local law. Waste, as that term is commonly used in landlord-tenant situations, shall not



be committed by any of the owners, mortgagees, or other parties in interest on any of the individual apartment units or common areas.

(f) No animals, fowl, or other livestock shall be kept, raised, bred, boarded or otherwise maintained in any unit or any common area or facility of this condominium, except that dogs, cats or other household pets may be kept in units subject to rules and regulations promulgated by the Board of Directors of the Association and, provided, that they are not kept for breeding and commercial purposes. In the event that any household pet shall create a nuisance or an unreasonable disturbance, then the owner of such household pet shall, upon direction from the Board of Directors of the Association, remove such pet or animal from the premises upon thirty (30) days written notice.

(g) Each of the apartment unit owners shall maintain their apartment unit in the common area surrounding it in good repair and clean appearance.

(h) That no apartment unit owner, mortgagee, or other party in interest shall be allowed to attach anything to the exterior of the apartment unit, such as awnings, signs, radio and/or television antennae, cables or other mechanical or decorative material without the prior written consent of the Board of Directors of the Association. In the event that any such materials are attached without the prior written consent, then the owner shall, upon thirty (30) days notice from the Association, remove the same at their sole cost and expense. In the event that the owner shall fail to remove the same, then the Association may remove the same and charge the expense for such removal as a special assessment to the individual apartment owner unit, mortgagee or party in interest.

(i) No noxious, nuisance or other offensive activity shall be carried on in any unit or the common area properties, nor shall anything be done, either willfully or negligently, which may be or become an annoyance or nuisance to the other unit owners or occupants by any unit owner, mortgagee, lessee or other party in interest, including guests and invitees.

(j) Nothing shall be done in any individual apartment unit or in, on or to the common areas or facilities which will impair the structural integrity of the building or which will structurally change the building, except as otherwise herein provided.

(k) No clothes, laundry or other materials of any kind shall be hung out or exposed on any part of the common areas or facilities or outside of the individual apartment units. Each of the apartment unit owners, their mortgagees or other parties in interest, shall be responsible for keeping the common areas and facilities as clean and free of rubbish, debris, and other unsightly materials as possible. No articles of personal property including, but not limited to, bicycles, toys, lounge chairs, awning cabanas and tables shall be stored, maintained, or placed on any of the common areas or facilities by anyone without the



prior written consent of the Board of Directors of the Association and pursuant to any rules and regulations which it may promulgate.

(l) At no time may any apartment unit owner or occupant or other person with the owner's or occupant's consent park, store, or locate any boat, trailer, camper, camper top, non-street vehicle or inoperable motor vehicle in or upon any of the common areas of the condominium.

(m) Each condominium apartment unit shall be entitled to use and occupy a maximum of two parking stalls as located in the common areas. This limitation shall apply to all owners, occupants or guests or invitees of owners and/or occupants. Further, all motor vehicles permitted to be parked in the common areas may only be parked in designated parking stalls located adjacent to private streets within the condominium project.

(n) Nothing shall be removed, altered or constructed upon any of the common areas or facilities without the express prior written consent of the Board of Directors of the Association.

#### 14. PHEASANT RUN CONDOMINIUM HOMEOWNERS ASSOCIATION, INC.

Responsibilities for the operation and daily activity of the property herein declared to be a condominium, together with all additional properties described herein as potentially a part of this condominium by appropriate amendment through the expandable condominium provisions of Kansas law and the reservations herein set out, shall be by Pheasant Run Condominium Homeowners Association, Inc. which shall be a corporation established simultaneously with the filing of this Declaration as a not-for-profit corporation under the laws of the State of Kansas with specific authority for its charter being given by the Secretary of State of the State of Kansas.

##### 14.1 Structure of the Association

The Articles of Incorporation of the Association were filed with the Secretary of State of the State of Kansas on the 14 day of May, 1979, and a charter was issued by the Secretary of State which together with a certified copy of the Articles of Incorporation was duly recorded in the records of the Register of Deeds of Shawnee County, Kansas, in Book FOUR at Page 85, on the 16 day of MAY, 1979. The By Laws of the Association, as a not-for-profit corporation, shall be those By Laws of the condominium and shall be those as hereinafter set forth and recorded herein with this Declaration. Pursuant to the requirements of K.S.A. 58-3118, no modification or amendment to the By Laws shall be valid unless set forth in an amendment to this Declaration and all other Declarations which may from time to time be hereafter recorded; said modification or amendment to the By Laws shall also be duly recorded in the office



of the Register of Deeds of Shawnee County, Kansas. The By Laws may be amended in the manner provided for herein, but no such amendment will be adopted which would affect or impair the validity or priority of any mortgagee or deed of trust covering an apartment unit unless the mortgagee or holder of the deed of trust shall join in the execution of the amendment. Such joinder shall constitute the consent of the mortgagee or holder of deed of trust. A copy of the By Laws of the Association is attached hereto as Exhibit "G" and incorporated herein by reference, as if set out in full herein.

#### 14.2 Management Agreement

Authority is specifically herein given to the Board of Directors Homeowners Association to enter into an appropriate management agreement with the Developer and/or an independent party to provide for the operation and management responsibilities of this condominium project and any expanded condominiums hereto. Provided, that said management agreement shall not exceed at any time a term of three-years. Such agreement may permit the other party to the agreement to constitute the exclusive management agent for the condominium and the Association and as such to be authorized and allowed to collect all assessments against apartment owners and to carry on and conduct such other affairs in behalf of the Association as said agreement shall allow. A copy of the first management agreement to be employed by the Association is attached hereto as Exhibit "H" and incorporated herein by reference, as if set out in full herein. Each apartment owner, mortgagee and party in interest by the acceptance of a deed to the apartment unit for the execution and recording of a mortgage, using as collateral for a debt the apartment unit, agrees to be bound by the terms and conditions contained in the management agreement.

#### 14.3 Maintenance, Repairs, Alterations and Improvements by the Association

The Association will maintain, repair, and/or replace all portions of apartments contributing to the support of the apartment buildings, the surfaces of outside walls of the apartment buildings, the surfaces of interior building walls facing common elements, if any there be, the stairwells and entry ways outside of the apartment units, and all



structural units between the floors of units and all materials enclosing the floor areas of apartments, and all other common areas and facilities, except the interior walls of apartments, doors and windows. Such repair or replacement or maintenance will be done as a common expense, unless made necessary by the negligence of any apartment owner, member of his family, or guests, employees, agents, or lessees of the apartment owner. In the event of any such negligence, the repair, replacement or maintenance of the item will be done by the Association at the expense of the apartment owner.

Further, the Association will maintain, replace and repair all conduits, ducts, wiring, sanitary sewer pipes, pipes, and other facilities for the furnishing of utility services to each building. After the utility facilities enter the building and branch off to serve a particular unit, then each apartment unit owner shall be responsible for the maintenance, repair and replacement of the conduits, ducts, wiring, sanitary sewer pipes, pipes and other facilities serving his/her particular unit, as provided for in paragraph 4 on ownership and paragraph 14.4 hereof. The obligations of the Association shall be done at the expense of the Association unless made necessary by the negligence of any apartment owner, member of his or her family, their guests, their occupants, invitees, agents, employees or lessees. In the event of any such negligence, the repair work will be done by the Association at the expense of the apartment owner.

All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services, and all fixtures and equipment contained within portions of the apartments to be maintained by the apartment owners, if necessary to properly furnish utility services to parts of the condominium other than the apartment within which they are contained, shall be done at the expense of the Association. All incidental damage caused to apartments by such work will be promptly repaired by the Association as an expense of the Association.

14.4 Maintenance, Repairs, Alterations and Improvements to be made by the Apartment Unit Owners

The responsibility for repair, maintenance, and replacement of the apartment owners will be as follows: